

LEGISLATIVE BILL 1065

Approved by the Governor April 12, 2010

Introduced by Heidemann, 1.

FOR AN ACT relating to vehicles; to amend sections 60-2401, 60-2401.01, 60-2403, 60-2405, 60-2406, 60-2407, 60-2408, 60-2409, and 60-2411, Reissue Revised Statutes of Nebraska, and sections 60-2404 and 60-2410, Revised Statutes Cumulative Supplement, 2008; to change provisions relating to towing; to harmonize provisions; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 60-2401, Reissue Revised Statutes of Nebraska, is amended to read:

60-2401 In cities of the metropolitan or primary class which have not adopted an ordinance conforming to section 60-2401.01, ~~meter~~ vehicles parked in a restricted parking lot without the consent of the owner or tenant shall be subject to being towed away, if the lot is properly posted.

Sec. 2. Section 60-2401.01, Reissue Revised Statutes of Nebraska, is amended to read:

60-2401.01 Except in cities of the metropolitan or primary class, any person parking a ~~meter~~ vehicle in a properly posted, restricted parking lot without the consent of the owner or tenant authorized to give permission shall be guilty of an infraction and the vehicle shall be subject to being towed away at the request of such lot owner or tenant. Any person found guilty under this section shall be subject to the penalties provided in section 29-436 for infractions. If the identity of the operator of a ~~meter~~ vehicle in violation of this section cannot be determined, the owner or person in whose name such vehicle is registered shall be held prima facie responsible for such infraction. When any law enforcement officer observes or is advised that a ~~meter~~ vehicle may be in violation of this section, he or she shall make a determination as to whether a violation has in fact occurred and, if so, shall personally serve or attach to such ~~meter~~ vehicle a citation pursuant to the provisions of section 29-424, directed to the owner or operator of such vehicle, which shall set forth the nature of the violation. Any person who refuses to sign the citation or otherwise comply with the command of the citation shall be punished as provided by section 29-426. As used in this section, law enforcement officer shall include any authorized representative of a law enforcement agency.

Sec. 3. Section 60-2403, Reissue Revised Statutes of Nebraska, is amended to read:

60-2403 Anyone towing a ~~meter~~ vehicle away pursuant to sections 60-2401 to 60-2411 shall notify the local law enforcement agency within twenty-four hours of the license number of the ~~meter~~ vehicle. Anyone towing a ~~meter~~ vehicle away pursuant to sections 60-2401 to 60-2411 and holding the ~~meter~~ vehicle for more than twenty-nine days shall, on the thirtieth day, renotify the local law enforcement agency of the ~~meter~~ vehicle's license number for the purpose of ascertaining whether the ~~meter~~ vehicle has been reported stolen or missing. Such renotification shall be repeated each thirty days while the ~~meter~~ vehicle is held by the tower or until such time as the tower has placed a lien on the ~~meter~~ vehicle as provided by section 60-2404.

Sec. 4. Section 60-2404, Revised Statutes Cumulative Supplement, 2008, is amended to read:

60-2404 A ~~meter~~ vehicle towed away under sections 60-2401 to 60-2411, which is not claimed by the owner within ninety days after towing, is subject to lien and disposition under Chapter 52, article 6, by the person who towed the vehicle.

Sec. 5. Section 60-2405, Reissue Revised Statutes of Nebraska, is amended to read:

60-2405 Any owner or tenant causing the towing away of a ~~meter~~ vehicle that is not improperly parked on a restricted lot shall cause the return of the ~~meter~~ vehicle to its owner or driver at no charge to such owner or driver. The person causing the ~~meter~~ vehicle to be towed shall be liable for any reasonably foreseeable damage incurred by the owner or driver of the ~~meter~~ vehicle due to loss of transportation.

Sec. 6. Section 60-2406, Reissue Revised Statutes of Nebraska, is amended to read:

60-2406 Anyone towing away a ~~meter~~ vehicle pursuant to sections 60-2401 to 60-2411 shall be liable for any reasonably foreseeable damages to the ~~meter~~ vehicle that occur during the hookup, towing, or disengagement of

the ~~meter~~ vehicle to or from the towing vehicle and anyone storing such a towed ~~meter~~ vehicle shall be liable for any reasonably foreseeable damage to the ~~meter~~ vehicle and the personal contents therein during the storage period.

Sec. 7. Section 60-2407, Reissue Revised Statutes of Nebraska, is amended to read:

60-2407 Anyone attempting to tow away a ~~meter~~ vehicle pursuant to sections 60-2401 to 60-2411 shall not be in full possession of the ~~meter~~ vehicle to be towed until the ~~meter~~ vehicle has been fully and completely attached to his or her towing vehicle. The tower shall, upon request of the owner or driver of the ~~meter~~ vehicle to be towed, disengage the towing apparatus at any time prior to taking full possession, as defined in this section, of the ~~meter~~ vehicle.

Sec. 8. Section 60-2408, Reissue Revised Statutes of Nebraska, is amended to read:

60-2408 The owner or driver of any ~~meter~~ vehicle towed away pursuant to sections 60-2401 to 60-2411 shall, upon regaining possession of the ~~meter~~ vehicle from the tower, be given a written statement by the tower fully detailing: (1) The name and address of the person or persons who caused the vehicle to be towed; (2) under what statutory authority the vehicle was towed; and (3) his or her rights under sections 60-2401 to 60-2411.

Sec. 9. Section 60-2409, Reissue Revised Statutes of Nebraska, is amended to read:

60-2409 Anyone towing a ~~meter~~ vehicle pursuant to sections 60-2401 to 60-2411 shall take reasonable steps to ascertain that the person causing the ~~meter~~ vehicle to be towed is the owner or tenant of the lot from which the ~~meter~~ vehicle is to be towed.

Sec. 10. Section 60-2410, Revised Statutes Cumulative Supplement, 2008, is amended to read:

60-2410 (1) The owner or other person lawfully entitled to the possession of any vehicle towed or stored shall be charged with the reasonable cost of towing and storage fees. Any such towing or storage fee shall be a lien upon the vehicle under Chapter 52, article 6, and, except as provided in subsection (3) of this section, shall be prior to all other claims. Any person towing or storing a vehicle may retain possession of such vehicle until such charges are paid or, after ninety days, may dispose of such vehicle to satisfy the lien. Upon payment of such charges, the person towing or storing the vehicle shall return possession of the vehicle to the (a) owner, (b) lienholder, or (c) any other person lawfully entitled to the possession of such vehicle making payment of such charges. The lien provided for in this section shall not apply to the contents of any vehicle.

(2) The person towing the ~~meter~~ vehicle shall, within ~~thirty~~ fifteen business days after towing, notify any lienholder appearing on the certificate of title of the ~~meter~~ vehicle and the owner of the ~~meter~~ vehicle of the towing of the ~~meter~~ vehicle. The notice shall be sent by certified mail, return receipt requested, to the last-known address of the lienholder and owner of the ~~meter~~ vehicle. The notice shall contain:

(a) The make, model, color, year, and vehicle identification number of the ~~meter~~ vehicle;

(b) The name, address, and telephone number of the person who towed the ~~meter~~ vehicle;

(c) The date of towing;

(d) The daily storage fee and the storage fee accrued as of the date of the notification; and

(e) A statement that the ~~meter~~ vehicle is subject to lien and disposition by sale or other manner ninety days after the date of towing under Chapter 52, article 6.

(3) Failure to provide notice as prescribed in subsection (2) of this section shall result in the lien of the person who towed the ~~meter~~ vehicle being subordinate to the lien of the lienholder appearing on the certificate of title and render void any disposition of the ~~meter~~ vehicle by the person who towed the ~~meter~~ vehicle.

Sec. 11. Section 60-2411, Reissue Revised Statutes of Nebraska, is amended to read:

60-2411 Any owner or tenant causing the towing away of a ~~meter~~ vehicle shall not solicit or accept therefor a commission, gift, gratuity, or any form of compensation or wealth from the person or business towing away the ~~meter~~ vehicle.

Sec. 12. Original sections 60-2401, 60-2401.01, 60-2403, 60-2405, 60-2406, 60-2407, 60-2408, 60-2409, and 60-2411, Reissue Revised Statutes of Nebraska, and sections 60-2404 and 60-2410, Revised Statutes Cumulative Supplement, 2008, are repealed.